

8 (c) providing over the wide area network to the end user the capability of interactively  
9 selecting one of a time, a space, and a seat of choice;  
10 (d) accepting over the wide area network from the end user a payment for one of the  
11 time, the space, and the seat selection of choice;  
12 (e) returning over the wide area network to the end user verification of the successful  
13 completion of the payment.

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1 17. (Amended) The method described in claim 2 wherein a communication connection  
2 between the information server and the end user is wireless.

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### **REMARKS**

Claims 1-6, 11, 16, 17, and 24-34 were examined and reported in the Office Action. Claims 6, 11, 16, and 17 were rejected as being indefinite. Claims 1-6, 11, 16, 17, and 24-34 were rejected as being obvious in view of certain relied upon prior art references. Claim 1 was amended to correct a typographical error. Claim 17 was amended to correct a lack of antecedent basis. No new matter has been added. Reconsideration of the application is respectfully requested.

#### **I. Claims Rejected Under 35 U.S.C. § 112, 2<sup>nd</sup> Paragraph**

The Examiner rejected claims 6, 11, 16 and 17 under 35 U.S.C. §112, 2<sup>nd</sup> paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Claim 1 was amended to correct a typographical error. Claim 17 was amended to correct a lack of antecedent basis. Neither amendment narrows any claim. Applicants respectfully request the rejection be withdrawn.

## II. Claims Rejected Under 35 U.S.C. § 103(a)

The Examiner rejected claims 1-6, 11, 16, 17, 24, 26, 27, 29-31, and 34 under 35 U.S.C. §103(a) as being unpatentable over Huegel, U.S. Patent No. 5,239,480 (“Huegel”). Applicants respectfully traverse these rejections.

The Examiner’s obligation in making a *prima facie* case of obviousness requires the Examiner to show that the cited references in combination teach or suggest all elements of the claimed invention. Applicants respectfully submit that the Examiner has failed to set forth a *prima facie* case of obviousness.

Huegel discloses a system that enables users to purchase tickets for events from an self-service terminal and be presented with the best seats available at the time of purchase. See Heugel col. 2, lines 15-19. The self-service terminal has within it a database of all events and corresponding locations and times. See Heugel col. 5, lines 12-17. Once the user has selected a particular event, the self-service terminal contacts a location processor at the venue through an intermediate network server. See Huegel col. 6, lines 16 and Fig. 1. The location processor selects the “best available” seats in each seating area. See Huegel col. 6, lines 19-25. The user may only select a preferred seating area and purchase those “best available” seats through the self-service terminal with a credit card. See Huegel col. 5, line 65 – col. 6, line 9.

Applicants’ claim 1 recites in part (emphasis added):

...displaying the information such that an end user connected to the wide area network can view the information on a client node unaffiliated with the server as an aid in determining a best then available space conforming to a need of the end user...

As an initial matter, the Examiner conceded that the self-service terminal of Huegel is not a client node unaffiliated with a server. See January 12, 2001 Office Action, page 4. The problems and requirements where no dedicated hardware or software exists on the client end are very different from the environment of Huegel in which the entire client is dedicated. Thus, Huegel

offers no meaningful teaching for an environment as claimed. The Examiner asserts, however, that it would have been obvious to one of ordinary skill in the art at the time the invention was made since doing so was well known in the art.

“The test for an implicit showing is what the combined teachings, knowledge of one of ordinary skill in the art, and the nature of the problem to be solved as a whole would have suggested to those of ordinary skill in the art.” *In re Kotzab*, 217 F.3d 1365, 1370 (Fed. Cir. 2000) (citation omitted). However, “[w]hether the Board relies on an express or an implicit showing, it must provide particular findings related thereto.” *In re Dembiczak*, 175 F.3d 994, 999 (Fed. Cir. 1999)(emphasis added). “Broad conclusory statements... standing alone, are not ‘evidence.’” *Id.* Here, the Examiner’s assertions regarding what was well known in the art are insufficient to carry the burden imposed by the law and patent practice which both require applicant be given specific references, the applicability and veracity of which may then be addressed. For this reason alone, Applicants respectfully requests the Examiner withdraw the rejection of claim 1 and its dependent claims.

Additionally, Applicants’ claim 1 recites in part (emphasis added):

...providing over the wide area network to the end user the capability of interactively selecting one of a time, a space, and a seat of choice...

...accepting over the wide area network from the end user a payment for one of the time, the space, and the seat selection of choice...

These quotations along with the second underlined clause above reflect yet another patentable distinction over Huegel. In Huegel, the user is constrained to select a general area in which he or she desires to sit. See Huegel col. 8, lines 41-44, col. 9, lines 7-10, 25-27. The location processor uses a selection algorithm to select individual seats on user’s behalf. See *id.* Huegel does not teach or suggest providing the user the ability to indicate a seat of choice or display and aid in delivering a best then available space conforming to the needs of an end user.

For purposes of example, conventional wisdom dictates that seats toward the center of a theater section are better than those along the aisles toward the sides of the theater. Thus, given a

row of seats numbered from left to right 1-24, seats 12 & 13 are likely to be identified by Huegel as the best available and forced on the end user. Conversely, Applicants claim a method and system in which the user can select from the then available seats a seat that is best for them. Perhaps the user is claustrophobic and therefore must sit on the aisle or maybe the user is seven feet tall and is willing to trade off an ideal view for a bit more leg room. These scenarios are not and cannot be addressed by Huegel. Accordingly, Huegel fails to teach or suggest these aspects of applicants' claims and a prima facie case of obviousness does not exist. Therefore, applicant respectfully submits the rejection of claim 1 should be withdrawn.

Regarding the rejection of claims 2, 3, 4, 5, 6, 11, 16, and 17, these claims are not obvious in view of the relied upon cited reference for at least the same reasons given in connection with their base claim 1. As such withdrawal of the rejection of claims 2, 3, 4, 5, 6, 11, 16, and 17 is respectfully requested.

Applicants' claim 24 recites in part (emphasis added):

...receiving at a server a request for a venue from at least one client node remote from and unaffiliated with the server...

The Examiner rejected claim 25 under 35 U.S.C. §103(a) as being unpatentable over Huegel in view of Merrill et al, U.S. Patent No. 5,333,257 ("Merrill"). Applicants respectfully traverse this rejection. Applicant submits the Merrill fails to cure the deficiencies discussed above in connection with Huegel. Accordingly, withdrawal of the rejection is respectfully requested.

The Examiner rejected claims 28, 32, and 33 under 35 U.S.C. §103(a) as being unpatentable over Huegel in view of Merrill and Bricklin, U.S. Patent No. 5,621,430 ("Bricklin"). Applicants respectfully traverse these rejections. The addition of Bricklin fails to cure the deficiencies discussed above. Thus, this rejection should also be withdrawn.

### **CONCLUSION**

In view of the foregoing, it is submitted that all claims now pending patentably define the subject invention over the cited references of record, and are in condition for allowance and such

action is earnestly solicited at the earliest possible date. If the Examiner believes a telephone conference would be useful in moving the case forward, he is encouraged to contact the undersigned at (310) 207-3800.

Respectfully submitted,

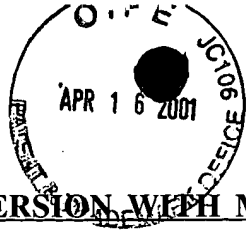
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*I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231 on April 11, 2001.*

Susan M. Ocegueda 4/11/2001  
Susan M. Ocegueda Date



VERSION WITH MARKINGS TO SHOW CHANGES MADE

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- 1           1.       (Twice Amended) A method comprising:
- 2           (a)       communicating on demand, from an information server through a wide area
- 3 network to a device connected to the wide area network information from a database populated by a
- 4 multiplicity of entries denoting availability for a venue;
- 5           (b)       displaying the information such that an [end-user] end user connected to the wide
- 6 area network can view the information on a client node unaffiliated with the server as an aid in
- 7 determining a best then available space conforming to a need of the [end-user] end user;
- 8           (c)       providing over the wide area network to the end user the capability of interactively
- 9 selecting one of a time, a space, and a seat of choice;
- 10          (d)       accepting over the wide area network from the end user a payment for one of the
- 11 time, the space, and the seat selection of choice;
- 12          (e)       returning over the wide area network to the end user verification of the successful
- 13 completion of the payment.

- 1           17.       (Amended) The method described in claim 2 wherein [the] a communication
- 2 connection between the information server and the end user is wireless.